

United States v. Tonawanda Coke Corporation and Mark L. Kamholz
10-CR-219-S

On February 26, 2013, the defendants, Tonawanda Coke Corporation (“Tonawanda Coke”) and its Manager of Environmental Control, Mark L. Kamholz, each proceeded to trial on a 19-count Indictment, which is available [here](#). Prior to trial, the government filed a trial memorandum which provided more detailed information about the case and is available [here](#).

On March 28, 2013, the jury found Defendant Tonawanda Coke guilty of 14 felony counts and Defendant Mark Kamholz guilty of 15 felony counts. Specifically, both defendants were found guilty of Counts 1 through 5 (violations of the Clean Air Act (“CAA”) by emitting coke oven gas from an unpermitted emission source), Count 9 (violation of the CAA by operating the western quench tower without baffles), Counts 11 through 15 (violations of the CAA by operating the eastern quench tower without baffles), and Counts 17 through 19 (violations of the Resource Conservation and Recovery Act (“RCRA”)). Defendant Mark Kamholz was additionally found guilty of Count 16 (obstruction of justice).

Sentencing for both Tonawanda Coke Corporation and Mark Kamholz is scheduled for March 19, 2014 at 10:00 AM before U.S. District Court Chief Judge William Skretny in the Federal Courthouse at 2 Niagara Square (9th floor), Buffalo, NY.

As part of the sentencing process, the government has moved the Court to hold a sentencing hearing to determine if any individuals that were exposed to the defendants’ illegal air pollution qualify as victims under the Crime Victims’ Rights Act (“CVRA”) (18 U.S.C. § 3771). It is the government’s position that certain community members living and working in the vicinity of Tonawanda Coke can be classified as victims because they have suffered a harm under the CVRA. The government has argued that the harm present here is the increased risk of contracting future diseases that individuals now face as a result of the defendants’ noxious emissions; physical injury and/or loss, such as acute effects of breathing polluted air (ear, nose, and throat irritations), black soot settling on homes, vehicles, and pools, loss of use and enjoyment of property, and devaluation of property values; and the emotional distress and psychological harm to individuals as a result of having been subjected to the defendants’ prolonged and continuous air pollution. Although the government is awaiting direction from the Court regarding its motion under the CVRA, if you feel that you have been harmed by the defendants’ conduct, please complete the Victim Questionnaire [available here](#) and/or contact EPA Special Agent Robert Conway at 315-423-9548.

In preparation for sentencing, the following documents have been filed with the Court:

Government Submissions

Government’s Sentencing Memorandum, [available here](#);

Exhibits 1-5, [available here](#);
Exhibits 6-7, [available here](#);
Exhibits 8-12, [available here](#);
Exhibits 13-18, [available here](#);
Exhibits 19-20, [available here](#);
Exhibits 21-31, [available here](#);
Exhibit 32, [available here](#);
Exhibits 33-36, [available here](#);
Exhibits 37-41, [available here](#);
Exhibits 42-46, [available here](#);
Exhibit 48, [available here](#);
Exhibits 49-51, [available here](#);
Exhibit 52, [available here](#);
Exhibit 53, [available here](#);
and Exhibits 54-55, [available here](#)

Government's Response to Defendant Kamholz's Sentencing Memorandum, [available here](#);

Exhibit 1, [available here](#);
Exhibit 2, [available here](#);
Exhibit 3, [available here](#);
Exhibit 4, [available here](#);

Government's Response to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);

Exhibit 1, [available here](#);
Exhibit 2, [available here](#);
Exhibit 3, [available here](#);
Exhibit 4, [available here](#);
Exhibit 5, [available here](#);
Exhibit 6, [available here](#);
Exhibit 7, [available here](#);
Exhibit 8, [available here](#);
Exhibit 9, [available here](#);
Exhibit 10, [available here](#);
Exhibit 11, [available here](#);
Exhibit 12, [available here](#);

Government's Consolidated Reply to the Defendants' Responses to the Sentencing Memorandum, [available here](#);

Exhibit 1, [available here](#);
Exhibit 2, [available here](#);
Exhibit 3, [available here](#);
Exhibit 4, [available here](#);
Exhibit 5, [available here](#);

Government's Supplemental Sentencing Memorandum and Motion for Designation of Victim Status under the Crime Victims' Rights Act, [available here](#);

Exhibit 1, [available here](#);
Exhibit 2, [available here](#);
Exhibit 3, [available here](#);

Government's Reply regarding the Supplemental Sentencing Memorandum and Motion for Designation under the CVRA, [available here](#)

Exhibit 1, [available here](#);
Exhibit 2, [available here](#);
Exhibit 3, [available here](#);

Defendant Tonawanda Coke Submissions

Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 1 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 2 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 3 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 4 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 5 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 6 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 7 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#);
Exhibit 8 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#); and
Exhibit 9 to Defendant Tonawanda Coke's Sentencing Memorandum, [available here](#).

Defendant Tonawanda Coke's Response to the Government's Sentencing Memorandum, [available here](#);

Exhibit A, [available here](#);
Exhibit B, [available here](#);
Exhibit C, [available here](#);

Defendant Tonawanda Coke's Reply to the Government's Sentencing Memorandum Response, [available here](#);

Attachment A, [available here](#);
Attachment B, [available here](#);

Defendants' Joint Response to the Government's Supplemental Sentencing Memorandum and Motion for Designation of Victim Status under the Crime Victims' Rights Act, [available here](#);

Exhibit A, [available here](#);
Exhibit B, [available here](#)

Defendant Kamholz Submissions

Defendant Kamholz's Sentencing Memorandum, [available here](#);
Exhibit A to Defendant Kamholz's Sentencing Memorandum, [available here](#);
Exhibit B to Defendant Kamholz's Sentencing Memorandum, [available here](#);
Exhibit C to Defendant Kamholz's Sentencing Memorandum, [available here](#);
Exhibit D to Defendant Kamholz's Sentencing Memorandum, [available here](#); and
Exhibit E to Defendant Kamholz's Sentencing Memorandum, [available here](#).

Defendant Kamholz's Response to the Government's Sentencing Memorandum, [available here](#);

Exhibits A-E, [available here](#);
Exhibits F-J, [available here](#);
Exhibits K-I, [available here](#);

Defendant Kamholz's Reply to the Government's Sentencing Memorandum Response, [available here](#);

Exhibit 1, [available here](#);
Exhibit 2, [available here](#);
Exhibit 3, [available here](#);
Exhibit 4, [available here](#);
Exhibit 5, [available here](#);
Exhibit 6, [available here](#);
Exhibit 7, [available here](#);
Exhibit 8, [available here](#);
Exhibit 9, [available here](#);
Exhibit 10, [available here](#);
Exhibit 11, [available here](#);

Any questions should be directed to:

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